

REMARKS

Applicant's counsel thanks the Examiner for the careful consideration given the application. The claims have been amended to more clearly define the invention. Vegetable oil has been replaced by soybean oil in the claims and claims 10, 11, 24 and 25 have accordingly been cancelled. Method claims 28 and 29 have been added, which are similar to claims 8 and 22, and dependent claims 30-35 have been added, which correspond to claims 9, 12 and 13. No new matter has been added.

As an initial matter, applicant wishes to point out that the instant original and new claims are not merely directed to a general method for preventive or curative fungicide treatment of agricultural cultivation, but are specifically directed to the use of a water emulsion of soybean oil as an adjuvant for the substance having a fungicide activity. The current wording of claim 8 specifically recites this feature ("*applying a water emulsion as an adjuvant for a substance having a fungicide activity*") and claims 28-29 are also specifically directed to this technical feature.

In the Office action, the claims have been rejected under Sec. 103 as obvious and unpatentable over Bratescu et al. (US 6528070) and also in view of Narayanan et al. (US 5176736) and in view of Huber-Emden et al. (US 3873703). However, upon more careful analysis and consideration, it can be seen that the claims as now presented clearly define over these references and should now be allowed, for the reasons as follows.

Bratescu generally refers to an emulsion comprising oil, water and cationic, anionic and bridging surfactants. This reference fails to disclose a fungicide treatment method (instant claim 22) and/or the adjuvant effect of the water emulsion on the fungicide activity (claims 8, 28-29). Further, this reference neither discloses nor suggests an emulsion comprising soybean oil.

The instant invention is based on the surprising discovery that the emulsion comprising water and soybean oil can enhance the fungicide activity of a fungicide agent used on agricultural cultivation. This improving effect can be referred to in the claims by the term "*adjuvant*" (see claims 8, 28 and 29). This adjuvant effect is clearly apparent from the experimental results given in the Specification as filed:

- see the results given in Example 2 wherein the combination of the emulsion and the fungicide agent leads to 100% efficiency, whereas the fungicide substance at much higher doses only leads to a 97.4% efficiency.

- Examples 4-14 show that the combination of the fungicide agent plus the water emulsion of soybean oil allows a highly significant decrease of the concentration of the fungicide

agent in order to achieve the same efficiency as the fungicide agent alone.

This effect is particularly desirable in order to limit the residues of chemicals in food products.

It is therefore apparent from the experimental results presented in the Specification that the claimed method of applying a water emulsion comprising soybean oil involves a synergy with the fungicide agent. The synergy which has been shown in the results in the Specification is both surprising and unexpected. This synergy was neither disclosed nor suggested from either Bratescu et al., or Narayanan or Huber-Emden.

As discussed and shown above, the results of the present invention are both surprising and unexpected in view of the prior art. Because the results of the present invention are surprising and unexpected, this obviates and overcomes the obviousness rejection.

Accordingly, it is clear that the present claims do involve an inventive and nonobvious step over Bratescu et al., alone or in combination with Narayanan or Huber-Emden and should be allowed.

Moreover, those claims directed to the treatment method consisting of applying an emulsion comprising 40% of soybean oil clearly involve an inventive and nonobvious step over the prior art, since these claims are narrower than the main claims.

For all the reasons set forth above, it is clear that the results of the present invention are surprising and unexpected, and the claims are accordingly nonobvious and inventive over the prior art. For these reasons it is clear that the claims as now presented are in condition for allowance, and a Notice of Allowance is accordingly respectfully requested. If any further fees are required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. LAVO-37109.

Respectfully submitted,

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